

Executive Summary – Enforcement Matter – Case No. 42970
Monarch Utilities I L.P.
RN102287513
Docket No. 2011-2189-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Decker Hills WWTP, located approximately 1.3 miles west of the intersection of Huffsmith-Dobbin Road and Hardin-Store Road, Montgomery County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 16, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$29,800

Amount Deferred for Expedited Settlement: \$5,960

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$23,840

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Docket No. 2011-2189-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 19, 2011

Date(s) of NOE(s): October 15, 2011

Violation Information

1. Failed to prevent the unauthorized discharge of wastewater from the collection system into or adjacent to water in the state. Specifically, 16 unauthorized discharges from the collection system occurred between April 2009 and July 2011 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012587001, Permit Conditions No. 2.g.].
2. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012587001, Operational Requirements No. 4].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On April 27, 2009, disinfected area with hydrated lime and granular chlorine;
- b. On April 28, 2009, disinfected area with hydrated lime and granular chlorine;
- c. On May 13, 2009, disinfected area with hydrated lime and granular chlorine;
- d. On June 19, 2009, disinfected area with granular chlorine and hydrated lime;
- e. On July 11, 2009, disinfected area with hydrated lime and liquid bleach;
- f. On August 23, 2009, jetted main line to clear blockage and applied granular chlorine to the affected area;
- g. On August 24, 2009, source point vactored area around clean-out and disinfected area with hydrated lime and granular chlorine;
- h. On December 21, 2009, shut down lift station and had Terra Renewal haul sewage from lift station until repairs were made and disinfected area with hydrated lime and granular chlorine;

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- i. On December 26, 2009, reset pump starter, pumped down lift station/system, and applied granular chlorine to the affected area;
- j. On January 29, 2010, called in vactor truck to haul excess sewage and applied granular chlorine to the affected area;
- k. On March 21, 2010, called for trucks to haul sewage and spread hydrated lime to affected area;
- l. On December 15, 2010, applied granular chlorine to affected area, vactored affected area, and replaced hose on temporary pump;
- m. On January 11, 2011, applied granular chlorine to affected area and bled air from pipes and pumps;
- n. On January 18, 2011, cleared blockage from the lift pumps and applied granular chlorine to affected area;
- o. On February 1, 2011, took generator to lift station and hooked generator up until light company restored power; applied granular chlorine to affected area;
- p. On July 31, 2011, disinfected area with lime and vactored spill; and
- q. On December 6, 2011, purchased and installed a disconnection box and quick-connect at the Stonehaven Lift Station.

Technical Requirements:

The Order will require Respondent to:

- a. Within 60 days, conduct an engineering evaluation of the areas of the collection system identified in the Unauthorized Discharge Table to determine the causes of the unauthorized discharges and develop and implement a plan and necessary corrective actions designed to prevent the recurrence of unauthorized discharges. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of the corrective actions within 240 days after the effective date of this Agreed Order; and
- b. Within 270 days, submit written certification demonstrating compliance.

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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division,
Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Charles W. Profilet, Jr., President, Monarch Utilities I L.P., 12535 Redd
Road, Sugar Land, Texas 77478
Dennis Clarke, Director, Monarch Utilities I L.P., 12535 Redd Road, Sugar Land, Texas
77478
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES

Assigned

17-Oct-2011

PCW

4-Jun-2012

Screening

31-Oct-2011

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Monarch Utilities I L.P.

Reg. Ent. Ref. No. RN102287513

Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 42970

Docket No. 2011-2189-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 2

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Jennifer Graves

EC's Team Enforcement Team 1

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$23,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

30.0%

Enhancement

Subtotals 2, 3, & 7

\$7,050

Notes

Enhancement for four months of self-reported effluent violations and two NOV's with same/similar violations.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$750

Economic Benefit

Total EB Amounts

\$13,994

Approx. Cost of Compliance

\$68,000

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$29,800

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$29,800

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$29,800

DEFERRAL

20.0%

Reduction

Adjustment

-\$5,960

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$23,840

Screening Date 31-Oct-2011

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PCW

Respondent Monarch Utilities I L.P.

Policy Revision 2 (September 2002)

Case ID No. 42970

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102287513

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations and two NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 31-Oct-2011

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PCW

Respondent Monarch Utilities I L.P.

Policy Revision 2 (September 2002)

Case ID No. 42970

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102287513

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012587001, Permit Conditions No. 2.g.

Violation Description

Failed to prevent the unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, as documented during an investigation conducted on August 19, 2011. Specifically, 16 unauthorized discharges from the collection system occurred between April 2009 and July 2011, as shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 16

16 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$16,000

Sixteen quarterly events are recommended, one for each unauthorized discharge event.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Violation Subtotal \$16,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13,952

Violation Final Penalty Total \$20,800

This violation Final Assessed Penalty (adjusted for limits) \$20,800

Economic Benefit Worksheet

Respondent Monarch Utilities I L.P.

Case ID No. 42970

Reg. Ent. Reference No. RN102287513

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$16,000	27-Apr-2009	31-Jul-2011	2.26	\$121	\$2,411	\$2,532
Engineering/construction	\$50,000	27-Apr-2009	31-Jul-2012	3.26	\$544	\$10,877	\$11,421
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to apply granular chlorine and lime to affected areas, replace hose on the temporary pump, bleed air from the pipes and pumps, and clear blockages. The date required is the date of the first unauthorized discharge. The final date is the date of compliance. Estimated cost to conduct an engineering evaluation of the areas of the collection system identified in the Unauthorized Discharge table. The date required is the date of the first unauthorized discharge. The final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$66,000

TOTAL

\$13,952

Screening Date 31-Oct-2011

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PCW

Respondent Monarch Utilities I L.P.

Policy Revision 2 (September 2002)

Case ID No. 42970

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102287513

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0012587001, Operational Requirements No. 4

Violation Description

Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, as documented during an investigation conducted on August 19, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix
Notes

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

73 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events are recommended based on the investigation date (August 19, 2011) to the date of screening (October 31, 2011).

Good Faith Efforts to Comply

10.0% Reduction

\$750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 6, 2011.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent Monarch Utilities I L.P.

Case ID No. 42970

Reg. Ent. Reference No. RN102287513

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	19-Aug-2011	6-Dec-2011	0.30	\$2	\$40	\$42
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to purchase and install a disconnection box and quick-connect at the Stonehaven Lift Station. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$42

Compliance History

Customer/Respondent/Owner-Operator:	CN602740706 Monarch Utilities I L.P.	Classification: AVERAGE	Rating: 2.12
Regulated Entity:	RN102287513 DECKER HILLS WWTP	Classification: AVERAGE	Site Rating: 0.47
ID Number(s):	WASTEWATER	PERMIT	WQ0012587001
	WASTEWATER	EPA ID	TX0090905
Location:	APPROX. 1.3 M W OF THE INTX OF HUFFSMITH-DOBBIN RD AND HARDIN-STORE RD IN MONTGOMERY CO, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	December 28, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 28, 2006 to December 28, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jennifer Graves	Phone:	(956) 430-6023

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3. If YES, who is the current owner/operator? | N/A |
| 4. If YES, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. If YES, when did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2011 Repeat Violator: NO | |

Components (Multimedia) for the Site:

- | | |
|----|---|
| A. | Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A |
| B. | Any criminal convictions of the state of Texas and the federal government.
N/A |
| C. | Chronic excessive emissions events.
N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |

- | | | |
|---|------------|----------|
| 1 | 07/10/2007 | (563251) |
| 2 | 02/21/2007 | (625635) |
| 3 | 03/22/2007 | (625636) |
| 4 | 04/20/2007 | (625637) |
| 5 | 05/21/2007 | (625638) |
| 6 | 06/21/2007 | (625639) |
| 7 | 07/19/2007 | (625640) |
| 8 | 08/23/2007 | (625641) |
| 9 | 09/18/2007 | (625642) |

10	10/22/2007	(625644)
11	11/26/2007	(625646)
12	12/20/2007	(625648)
13	01/22/2007	(625649)
14	02/14/2008	(675703)
15	03/20/2008	(675704)
16	04/18/2008	(675705)
17	01/18/2008	(675706)
18	05/20/2008	(694045)
19	06/20/2008	(694046)
20	07/18/2008	(694047)
21	08/29/2008	(715387)
22	09/19/2008	(715388)
23	10/14/2008	(715389)
24	11/20/2008	(731182)
25	12/19/2008	(731183)
26	01/19/2009	(731184)
27	07/21/2009	(746982)
28	02/20/2009	(754450)
29	04/20/2009	(754451)
30	04/20/2009	(754452)
31	05/14/2009	(771716)
32	06/12/2009	(771717)
33	02/18/2010	(815233)
34	07/20/2009	(815234)
35	08/31/2009	(815235)
36	09/18/2009	(815236)
37	10/19/2009	(815237)
38	11/20/2009	(815238)
39	12/18/2009	(815239)
40	01/19/2010	(815240)

41 03/19/2010 (834536)

42 04/19/2010 (834537)

43 05/20/2010 (834538)

44 06/18/2010 (847394)

45 10/18/2010 (850439)

46 07/16/2010 (861825)

47 08/26/2010 (868263)

48 09/17/2010 (875174)

49 10/20/2010 (882784)

50 11/12/2010 (889187)

51 12/16/2010 (897565)

52 01/19/2011 (903458)

53 03/15/2011 (905354)

54 02/18/2011 (910367)

55 03/15/2011 (917591)

56 04/18/2011 (928721)

57 05/20/2011 (939296)

58 06/20/2011 (946698)

59 07/20/2011 (953959)

60 10/14/2011 (955640)

61 08/31/2011 (960552)

62 09/16/2011 (966607)

63 10/20/2011 (972621)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/31/2008	(694046)	CN602740706
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	07/21/2009	(746982)	CN602740706
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125 Permit Conditions, P. 7, No. 2g PERMIT TWC Chapter 26 26.121		

Description: Failure to prevent the unauthorized discharge of sludge from the wastewater treatment plant.

Date: 02/28/2010 (834536) CN602740706
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (834538) CN602740706
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/15/2010 (850439) CN602740706
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to provide Reduced Pressure Zone (RPZ) backflow prevention devices on the potable water lines to the Stonehaven, Strathdon, Turriff, and Champions Glen lift stations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain the chlorine contact basin.

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to prevent the unauthorized discharge of wastewater.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to insure flow measurement accuracy.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted effluent limits for Total Suspended Solids (TSS).

Date: 01/31/2011 (910367) CN602740706
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MONARCH UTILITIES I L.P.
RN102287513**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-2189-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Monarch Utilities I L.P. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns a wastewater treatment plant located approximately 1.3 miles west of the intersection of Huffsmith-Dobbin Road and Hardin-Store Road in Montgomery County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 20, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Nine Thousand Eight Hundred Dollars (\$29,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Three Thousand Eight

Hundred Forty Dollars (\$23,840) of the administrative penalty and Five Thousand Nine Hundred Sixty Dollars (\$5,960) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures:

CORRECTIVE ACTIONS	
Date Completed	Corrective Action
April 27, 2009	disinfected area with hydrated lime and granular chlorine
April 28, 2009	disinfected area with hydrated lime and granular chlorine
May 13, 2009	disinfected area with hydrated lime and granular chlorine
June 19, 2009	disinfected area with granular chlorine and hydrated lime
July 11, 2009	disinfected area with hydrated lime and liquid bleach
August 23, 2009	jettied main line to clear blockage and applied granular chlorine to the affected area
August 24, 2009	source point vactored area around clean-out and disinfected area with hydrated lime and granular chlorine
December 21, 2009	shut down lift station and had Terra Renewal haul sewage from lift station until repairs were made and disinfected area with hydrated lime and granular chlorine
December 26, 2009	reset pump starter, pumped down lift station/system, and applied granular chlorine to the affected area
January 29, 2010	called in vactor truck to haul excess sewage and applied granular chlorine to the affected area
March 21, 2010	called for trucks to haul sewage and spread hydrated lime to affected area
December 15, 2010	applied granular chlorine to affected area, vactored affected area, and replaced hose on temporary pump

January 11, 2011	applied granular chlorine to affected area and bled air from pipes and pumps
January 18, 2011	cleared blockage from the lift pumps and applied granular chlorine to affected area
February 1, 2011	took generator to lift station and hooked generator up until light company restored power; applied granular chlorine to affected area
July 31, 2011	disinfected area with lime and vactored spill
December 6, 2011	purchased and installed a disconnection box and quick-connect at the Stonehaven Lift Station

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012587001, Permit Conditions No. 2.g., as documented during an investigation conducted on August 19, 2011. Specifically, 16 unauthorized discharges from the collection system occurred between April 2009 and July 2011, as shown in the table below:

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount Discharged (gallons)	Description
April 27, 2009	29628 Stonehaven (lift station)	500	heavy rain caused discharge at lift station and sewage drained to drainage ditch
April 28, 2009	29801 Wichita Falls Decker Hills Wastewater Treatment Plant ("WWTP")	4,000	heavy rain caused discharge at the WWTP and sewage was confined to yard at the WWTP
May 13, 2009	29611 Decker Hills Drive (manhole)	500-600	blockage in both lift pumps and sewage discharged from manhole and drained into area around manhole
June 19, 2009	29122 Portsey (manhole)	100-200	grease and rags blockage in district line and sewage from the manhole discharged to area around manhole
July 11, 2009	29602 Iverness Drive (manhole)	500	blockage in district line and sewage from the manhole discharged from manhole and drained into drainage ditch
August 23, 2009	9227 East Lakeside Drive (manhole)	500	blockage in gravity flow sewer main and sewage from the manhole discharged and was contained to the drainage ditch
August 24, 2009	30307 Turriff Circle (residence)	750	blockage in district line and sewage discharged into area around clean-out
December 21, 2009	29614 Highland Boulevard (lift station)	300	broken force main at lift station and sewage at the lift station drained into a drainage ditch
December 26, 2009	9227 East Lakeside Drive (manhole)	100	lift station pump tripped and sewage drained into a drainage ditch

January 29, 2010	29628 Stonehaven (lift station)	250	heavy rain in a short period of time at the lift station and sewage discharged into a drainage ditch
March 21, 2010	29628 Stonehaven (lift station)	150	power loss at lift station due to tree falling on power line and sewage discharged into a drainage ditch
December 15, 2010	29628 Stonehaven (lift station)	1,000	clamp on temporary pump discharge hose broke at the lift station and sewage discharged into a drainage ditch
January 11, 2011	29628 Stonehaven (lift station)	200	lift pumps air-locked after lift station was bottom-cleaned and sewage discharged into a drainage ditch
January 18, 2011	29628 Stonehaven (lift station)	100	clogged lift pumps at the lift station and sewage discharged into a drainage ditch
February 1, 2011	29628 Stonehaven (lift station)	200	power loss at lift station due to severe weather and sewage discharged into a drainage ditch
July 31, 2011	9115 Hidden Lake East (manhole)	200	power loss at lift station and sewage discharged into a drainage ditch

2. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012587001, Operational Requirements No. 4, as documented during an investigation conducted on August 19, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Monarch Utilities I L.P., Docket No. 2011-2189-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the areas of the collection system identified in the Unauthorized Discharge Table to determine the causes of the unauthorized discharges and develop and implement a plan and necessary corrective actions designed to prevent the recurrence of unauthorized discharges. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of the corrective actions within 240 days after the effective date of this Agreed Order;
 - b. Within 270 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. It shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Randy Jones Jr.
For the Executive Director

12/21/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Charles W. Profilet, Jr.
Signature

6.28.12
Date

Charles W. Profilet, Jr.
Name (Printed or typed)
Authorized Representative of
Monarch Utilities I L.P.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.